

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Service Rules for the 698-746, 747-762)	WT Docket No. 06-150
and 777-792 MHz Bands)	
)	
Revision of the Commission's Rules to Ensure)	CC Docket No. 94-
102		
Compatibility with Enhanced 911 Emergency)	
Calling Systems)	
)	
Section 68.4(a) of the Commission's rules)	WT Docket No. 01-
309		
Governing Hearing Aid-Compatible)	
Telephones)	
)	
Biennial Regulatory Review – Amendment of)	WT Docket No. 03-264
Parts 1, 22, 24, 27, and 90 to Streamline and)	
Harmonize Various Rules Affecting Wireless)	
Radio Services)	
)	
Former Nextel Communications, Inc.)	WT Docket No. 06-
169		
Upper 700 MHz Guard Band)	
Licenses and Revisions to Part 27 of)	
the Commission's Rules)	
)	
Implementing a Nationwide, Broadband,)	PS Docket No. 06-
229		
Interoperable Public Safety Network in)	
the 700 MHz Band)	
)	
Development of operational, Technical and)	WT Docket No. 96-
86		
Spectrum Requirements for Meeting Federal, State)	
and Local Public Safety Communications)	
Requirements Through the Year 2010)	
)	
Declaratory Ruling on Reporting Requirement)	WT Docket No. 07-
166		

Under commission's Part 1 Anti-Collusion
Rule

))
)

To: The Commission

PETITION FOR PARTIAL RECONSIDERATION

NTCH, Inc. (“NTCH”) hereby petitions the Commission to reconsider the rules recently adopted for the 700 MHz band¹ in one limited respect. NTCH participated actively in the earlier round of filings in this Docket with respect to the block size and service rules applicable to this band. NTCH’s proposal is intended to solve a pressing problem affecting the telecommunications industry by imposing a single condition on what has now been constituted as the Lower Band “A block” (698-704/728-734 MHz). Specifically, the A Block licensee should be required to provide service on a discounted wholesale basis to designated Eligible Telecommunications Companies in each licensed EA. In effect, the discounted spectrum access would become the vehicle for delivery of supported telecommunications services to high cost areas. As will be set forth below, this simple expedient would permit the phase out of the present costly and wasteful support provided via the Universal Service Fund to ETCs, immediately benefiting all consumers who must now pay higher and higher monthly fees to sustain the USF. Since the fees paid by consumers can only go up if the USF takes on the burden of funding broadband build-out, as the Joint Board has indicated it intends to recommend, the need for relief from this on-going burden will become more and more critical.

¹ Service Rules for the 698 – 746, 747 – 762 and 777 – 792 MHz Bands, Second Report and Order, FCC 07-132, rel. August 10, 2007. (“*700 MHz Rules*”)

In the *700 MHz Rules*, the Commission imposed various conditions at the request of various parties on various channel blocks. While NTCH does not necessarily agree with the wisdom of some of the conditions, the fact is that the Commission has seized the opportunity to use license conditions as a way of advancing other public interest objectives such as open access, funding of the public safety network, and other worthy social goals. The Commission was expressly urged to impose a wholesale condition on the Upper Band C Block (“the Google Block”) and on the Upper Band D Block (“the Frontline Block”). In both cases, the Commission elected not to impose the wholesale obligation, seeing no need to impose such a requirement at this time. *700 MHz Rules* at paras.205 and 545. However, no party offered the public interest rationale set forth below to justify such a condition.

A. The USF Funding Process Has Skyrocketed and Must Be Overhauled

As the Commission has learned in WC Docket 05-337, the funding requirement for USF has been growing rapidly in the last few years, reaching over 4 billion dollars in 2006. That already intense growth is likely to mushroom even further as soon as broadband deployment is added to the menu of supported services, as the Joint Board has promised to recommend shortly. These funds come directly out of the pocket of American consumers who must pay a 10 – 12% surcharge on every monthly bill to support the recipients of USF largesse. The problem with the present USF system (and the remedies proposed to date) is that it approaches the problem obliquely by simply throwing dollars (billions of dollars) at

it. Instead of just subsidizing inefficient and out-dated service delivery systems, a more direct approach is to throw *spectrum* at the problem: make a specific spectrum block available on a discounted basis as the means by which needed services would be provided. It substitutes access to a spectrum resource for ongoing subsidies, thus giving ETCs the very tool they need to do their jobs. This approach also will greatly simplify the process of designating a limited number of ETCs in each market, by reverse auctions or otherwise, because the vying ETCs would all know exactly what they were getting in return for taking on the ETC obligations and they would tailor their bids accordingly. NTCH believes that this proposal could in one swoop eliminate the need for further USF funding by consumers, eliminate the bureaucracy needed to administer the USF process, and at the same time deliver the services to the American people that the USF was intended to foster.

B. Require a 50% Discount on Wholesale Service to ETCs

The Commission should condition the grant of the A Block license on the licensee offering wholesale service to designated ETCs in the EA to which the block is assigned. ETCs are a matter of record either in each state or at the FCC, and there are a limited number who would qualify for this benefit. (The number of qualified ETCs may in fact drop if the Commission adopts a “reverse auction” approach to ETC designation as a way of eliminating duplication and waste in the provision of basic services supported by the USF.) The specified discount rate would be 50% of the licensee’s best retail rate or 50% of the national average of such rates, whichever is lower.

The quid pro quo for the ETCs' receipt of this beneficial rate is that they would have to provide all supported services in their area, including broadband, without any further support from the USF funding mechanism. Though there would have to be a phase out of the current system, NTCH estimates that the new system could be in place within two years of the DTV transition (*i.e.*, by February 2011). The A Block spectrum should be more than adequate for the ETC to provide all supported services. This would ensure the continued availability of high quality, advanced communications capabilities to the rural and high cost areas which now receive supported services, but at a much lower cost. With one stroke, the Commission could eliminate the payment of 4 billion dollars year after year by the American consumer without any loss in service to the targeted populations.

To be sure, the plan would not be without some cost. Just as with the presently conditioned Google and Frontline Blocks, the obligation to comply with regulatory conditions would dampen somewhat the amount that parties are willing to bid for the A Block licenses. Even if the high bids obtained by the Commission were 30 - 40% lower than might otherwise have been anticipated, however, the immediate loss to the treasury would only be a billion dollars at most, while the benefits to the public would be four or five times that amount in the first year alone. And the "hit" to the treasury would be a one time hit while the savings to the public would recur in perpetuity. Because the auction bidder would have factored this obligation into the amount of its bid, it would have no complaint about either the price it paid or the ongoing obligation to provide the discount. (Of course, the build-

out obligations applicable to all 700 MHz licensees would still apply, thus ensuring that licensees build out the undesirable areas that are most likely to be eligible for supported services.) Similarly, ETCs would understand upfront what their obligations are and how they would have to arrange their affairs to deliver the required services. (Existing ETCs who have grown accustomed to relying on the USF handouts alone could withdraw from the ETC system.)

Why the 700 MHz band? This large block of newly virgin spectrum is fortuitously coming available just at the moment that the USF support system is being evaluated for much needed overhaul. The 700 MHz band has exactly the propagational characteristics needed to provide service in the largely rural areas which most need high cost support. It can radiate over large areas with less impedance from terrain, vegetation and other obstructions. There is also a sufficient amount of spectrum available in this one block to permit both broadband and voice applications to be provided, thus meeting all high cost needs. The Commission should not miss this historic opportunity to harness a portion of this spectrum block to permanently solve the problem of ensuring high quality telecommunications services to high cost areas at a fraction of the cost of the current system.

C. Conclusion

What NTCH proposes, then, is a win-win situation for all concerned. The administrative costs of the USF system would be dramatically reduced. The multi-

billion dollar payments from the American public would be virtually eliminated.²

The waste, redundancy and inefficiency of the current system would be replaced by an efficient, market-oriented service delivery system, including broadband. And the entire program would be “paid for” by a relatively small diminution in the auction amounts bid for one block of spectrum. It is not too late to adopt this bold and forward-looking plan to solve the crushing problem of USF support.

Respectfully submitted,

NTCH, Inc.

By _____/s/_____
Glenn Ishihara, President

² Some funding would still be necessary for the other services supported by the USF such as schools and libraries.